

**SEC. 3304. REVISION OF RESTRICTION ON DISPOSAL OF MANGANESE FERRO.**

Section 3304 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104-106; 110 Stat. 629) is amended—

(1) in subsection (a)—

(A) by striking “(a) DISPOSAL OF LOWER GRADE MATERIAL FIRST.—The President” and inserting “During fiscal year 2002, the President”; and

(B) in the first sentence, by striking “, until completing the disposal of all manganese ferro in the National Defense Stockpile that does not meet such classification”; and

(2) by striking subsections (b) and (c).

**TITLE XXXIV—NAVAL PETROLEUM RESERVES****SEC. 3401. AUTHORIZATION OF APPROPRIATIONS.**

(a) **AUTHORIZATION OF APPROPRIATIONS.**—There is hereby authorized to be appropriated to the Secretary of Energy \$17,371,000 for fiscal year 2002 for the purpose of carrying out activities under chapter 641 of title 10, United States Code, relating to the naval petroleum reserves (as defined in section 7420(2) of such title).

(b) **AVAILABILITY.**—The amount authorized to be appropriated by subsection (a) shall remain available until expended.

**EXECUTIVE SESSION****EXECUTIVE CALENDAR**

Mr. REID. Madam President, I ask unanimous consent that the Senate proceed to the executive session to consider Executive Calendar No. 432, the nomination of Robert W. Jordan to be Ambassador to Saudi Arabia; that the nomination be confirmed, the motion to reconsider be laid upon the table, any statements thereon be printed in the RECORD, the President be immediately notified of the Senate's action, and the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nomination was considered and confirmed as follows:

**DEPARTMENT OF STATE**

Robert W. Jordan, of Texas, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Kingdom of Saudi Arabia.

**LEGISLATIVE SESSION**

The PRESIDING OFFICER. Under the previous order, the Senate will return to legislative session.

**MEASURE INDEFINITELY POSTPONED—S.J. RES. 16**

Mr. REID. Madam President, I ask unanimous consent that the Calendar No. 108, S.J. Res. 16, be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

**NEED-BASED EDUCATIONAL AID ACT OF 2001**

Mr. REID. Madam President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of H.R. 768 and the Sen-

ate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 768) to amend the Improving America's School Act of 1994 and make permanent favorable treatment of need-based educational aid under the antitrust laws.

There being no objection, the Senate proceeded to consider the bill.

**AMENDMENT NO. 1844**

Mr. REID. Madam President, I understand that Senator KOHL has a substitute amendment at the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Nevada [Mr. REID], for Mr. KOHL, proposes an amendment numbered 1844.

Mr. REID. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Need-Based Educational Aid Act of 2001”.

**SEC. 2. AMENDMENT.**

Section 568(d) of the Improving America's Schools Act of 1994 (15 U.S.C. 1 note) is amended by striking “2001” and inserting “2008”.

Mr. KOHL. Madam President, I rise today to offer a substitute amendment to H.R. 768. This legislation, as amended, will extend for seven years an existing antitrust exemption granted to colleges and universities that admit students on a need blind basis. The exemption provides protection for these schools to cooperatively develop a methodology for determining financial need in order to best assess a family's ability to pay the costs of attendance.

There is no doubt that higher education opens doors and creates opportunities. It is therefore imperative that we in Congress do what we can to keep higher education affordable for our nation's students and their families. Some of the best and most prestigious colleges and universities admit students without regard to their financial need, allowing talented students from disadvantaged backgrounds to achieve their full potential. This exemption allows those colleges and universities to generate a uniform methodology to determine a family's need. The colleges and universities that use the exemption believe it allows them to attract needy students and maintain a thriving financial aid program.

Discussions among colleges and universities using need-blind admissions policies began more than thirty years ago. However, in 1989, the Department of Justice filed suit against 23 colleges and universities alleging that their cooperation violated antitrust laws. A federal district court ruled that the schools were subject to the antitrust laws. In 1991, most of the colleges and

universities settled with the Department of Justice with a promise to stop sharing information.

Faced with the prospect of eliminating their discussions as a result of the settlement, the colleges and universities sought a law allowing them to meet. In 1992, Congress passed the original two-year antitrust exemption for those schools that guaranteed that their aid was need-blind. The exemption was extended in 1994 and 1997. With the lawsuit and the court order so fresh in our collective memory, it seems prudent to extend the exemption for a reasonable length of time, but not indefinitely. The exemption has always been granted on the theory that cooperation among universities in determining financial aid need benefits prospective students and their families. But there is little if any objective data to support this proposition. So this amendment directs the General Accounting Office (GAO) to study the effects of the antitrust exemption on undergraduate grant aid. The study will require schools who participate in discussions under the antitrust exemption to maintain and submit records. While the study will be comparative, schools that do not participate in discussions permitted by the exemption will not be required to maintain or submit records.

As a general rule, I strongly oppose antitrust exemptions. Our antitrust laws guarantee competition, and competition means lower prices and higher quality for consumers—including students purchasing a college education. But the colleges and universities using the exemption believe that the market functions differently in this case. I am therefore willing to extend the exemption for another seven years but believe that any further activity in this area must be coupled with hard objective data providing that this exemption does indeed benefit students and their families. Too many families are struggling today to put their children through college. So we must act very carefully and with full information before we pass a permanent antitrust exemption.

I would like to thank Representatives LAMAR SMITH and BARNEY FRANK and their staffs for their work on this legislation in the House, and Senators DEWINE, LEAHY, and HATCH and their staffs for their assistance on this substitute amendment. We hope the House will agree to these changes and expeditiously send this legislation to the President for his signature.

Mr. LEAHY. Madam President, I appreciate the work that Senators KOHL and DEWINE have done on this bill. I want to point out that while this bill extends the antitrust exemption for participating institutions' methodologies and applications for need-based financial aid, that exemption is still limited to the institutions' dealings with potential students collectively. It has not, and does not, exempt those institutions from the prohibitions of the